

AO 91 (Rev. 11/11) Criminal Complaint

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UNITED STATES DISTRICT COURT

for the
Southern District of Texas

United States Courts
Southern District of Texas
FILED

June 24, 2019

David J. Bradley, Clerk of Court

United States of America

v.

Mark Wayne Cottrell

Case No.

4:19mj1152

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 18, 2019, to present in the county of Harris in the
Southern District of Texas, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. § 2252A (a)(2)(B)

Distribution of child pornography

This criminal complaint is based on these facts:

See attached Affidavit.

☒ Continued on the attached sheet.



Complainant's signature

Robert J. Guerra, FBI Special Agent

Printed name and title

Sworn to telephonically.

Sworn to before me and signed in my presence.

Date: June 24, 2019City and state: Houston, Texas


Judge's signature

Dena Hanovice Palermo, USMJ

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Robert J. Guerra, being duly sworn, hereby depose and state the following:

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI), assigned to the Special Agent in Charge (SAC), in Houston, Texas. I have been so employed since November 2005. As part of my daily duties as an FBI agent, I am assigned to the FBI Houston Child Exploitation Task Force which, among other things, investigates criminal violations relating to child exploitation and child pornography, including violations pertaining to the illegal production, distribution, receipt and possession of child pornography, in violation of 18 U.S.C. §§ 2251, 2252A and 2252A et seq. I have received training in the areas of child pornography and child exploitation. I have had the opportunity to observe and review numerous examples of child pornography in all forms of media including computer media. Child Pornography, as defined in 18 U.S.C. § 2256, is:

“any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where – (A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct; . . . [or] (C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.” For conduct occurring after April 30, 2003, the definition also includes “(B) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from that of a minor engaging in sexually explicit conduct.”

2. This Affidavit is made in support of a criminal complaint charging Mark Wayne COTTRELL with violating 18 U.S.C. § 2252A(a)(2), the distribution of child pornography within the Southern District of Texas.
3. Because this Affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation, I have set forth only those facts that I believe are necessary to establish probable cause that evidence of violation of 18 U.S.C. § 2252A(a)(2) between the dates of April 18, 2019, and the present, have been committed by Mark Wayne COTTRELL.

Where statements of others are set forth in this Affidavit, they are set forth in substance and in part.

4. Between the dates of April 18, 2019, and April 19, 2019, Special Agent (SA) Andrew Zubik, FBI Albany, while acting in an undercover capacity began chatting with KiK user "umc1998". During the course of the KiK chat, "umc1998" shared three Mega links that contained child pornography.
5. In total the three Mega links contained over 1,000 image files and over 300 video files. Your affiant has reviewed the material contained within the Mega links and determined that the majority of the files contained within the links depict child pornography as defined by Title 18, United States Code, Section 2256. Below is a description of 3 files contained within the three Mega links sent by the Kik user "umc1998" on or about April 18, 2019:
 - a) **Andy_mein_Sohn_110.jpg**- This is an image file depicting a minor male, who appears to be under the age of 12, being anally penetrated by an adult male's finger.
 - b) **Ojos verdes 06.mp4**- This is a video file that is 2 minutes and 22 seconds in length, depicting a minor male, who appears to be under the age of 10, being anally penetrated by an adult male's penis.
 - c) **red cushion boys #2 33.28.avi**- This is a video file that is 33 minutes and 28 seconds in length, depicting two minor males, who both appear under the age of 14. The minor males can be seen engaging in oral and anal sex with each other.
6. During the course of the chat, "umc1998" advised SA Zubik that he was located in Houston, Texas and that he was into "young guys". "umc1998" stated his ideal age was minor males between the ages of 12-14. "umc1998" advised SA Zubik that he had previously been with a minor male who was 15 years old, that he had met on the mobile application, Grindr. "umc1998" stated that the minor male attends a high school near his house. "umc1998" stated he has met with the minor male on at least 3 separate occasions. "umc1998" identified himself as "Mark" to SA Zubik. "umc1998" sent several images and videos that were purported to be of himself. The adult male depicted in the images and videos is a white male wearing dark framed eye glasses, with dark colored hair and a

close shaved haircut. The adult male also appears to have a tattoo on his shoulder depicting a moon.

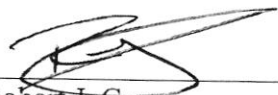
7. On or about April 18, 2019, SA Zubik via the KiK application provided "umc1998" his cellular telephone number. SA Zubik subsequently received a text message from telephone number 713-494-3441. The first text message stated "Hi andy. Is Mark". SA Zubik engaged in text conversation with "Mark" from April 18, 2019, to the present. During the course of the text conversation, "Mark" sent approximately 7 images depicting child pornography. Below is a description of 2 images sent by "Mark" via text message from telephone number 713-494-3441:
 - a) **123_1(15).jpg**- This is an image file depicting a minor male, who appears to be under the age of 12, being orally penetrated by another male's penis.
 - b) **123_1(2).jpg**- This is an image file depicting a minor male, who appears to be under the age of 12, with his erect penis as the focal point of the image.
8. During the course of the text conversation, "Mark" also sent several selfies of himself to SA Zubik, which after reviewing the images, your affiant can positively say that the adult male depicted in the images sent via the KiK application and the images of the adult male sent via text message are one in the same. "Mark" sent child pornography via text message to SA Zubik as recently as June 11, 2019.
9. In consideration of the above information, FBI Albany served an administrative subpoena to KiK in pursuit of subscriber information associated with the Kik user account, "umc1998". A response received from KiK identified an email account of cmark860@yahoo.com to be associated with the KiK account. KiK also provided several IP addresses to be associated with the account. The most recent being 99.65.26.22 on May 13, 2019, which resolved back to AT&T Internet Service.
10. Your affiant served an administrative subpoena to AT&T Internet Service in pursuit of subscriber information for the IP addresses 99.65.26.22 on the date specified in paragraph 25. AT&T Internet Service responded and provided the following subscriber information for IP address 99.65.26.22:

Subscriber Name: Mark Cottrell
Service Address: 11515 Burdine Street Apt 534
Houston, Texas 77035
Telephone #: 713-494-3441
Type of Service: U-Verse
Status: Active


11. In consideration of the above information, FBI Albany served an administrative subpoena to AT&T requesting subscriber information for the telephone number 713-494-3441. AT&T responded and identified Mark Cottrell, 11515 Burdine Street, Houston, Texas 77035, as the subscriber assigned the telephone number 713-494-3441.
12. On or about June 4, 2019, FBI Houston received a lead package containing the investigative details relevant to the investigation as described above. Your Affiant subsequently reviewed all of the provided case materials to include the suspected files of child pornography attributed to the Mega links that were sent by the Kik user "umc1998" as well as the child pornography sent via text message between April 18, 2019, and the present. Your Affiant determined that the files, described in detail above in paragraphs 22 and 24, depict child pornography as defined by Title 18, United States Code, Section 2256.

CONCLUSION

13. Based on all information set forth above, your Affiant believes there is probable cause to believe that between April 18, 2019 and the present, Mark Wayne COTTRELL, was in violation of Title 18 U.S.C. § 2252A (a)(2)(B) by distributing child pornography material via KiK as well as via text message.


Robert J. Guerra
Special Agent, FBI

Subscribed and sworn to telephonically this 24th day of June 2019.


Dena Hanovice Palermo
United States Magistrate Judge